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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/560,774	12/14/2005	Fabien Schweighoffer	BJS-3665-167	5165
23117 7590 10/16/2008 NIXON & VANDERHYE, PC 901 NORTH GLEBE ROAD, 11TH FLOOR ARLINGTON, VA 22203				
EXAMINER JAVANMARD, SAHAR				
ART UNIT 1617		PAPER NUMBER		
MAIL DATE 10/16/2008		DELIVERY MODE PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/560,774

Applicant(s)

SCHWEIGHOFFER ET AL.

Examiner

SAHAR JAVANMARD

Art Unit

1617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 July 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 7 and 11-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 7 and 11-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CIS)
- Paper No(s) Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s) Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Status of the Application

Applicant has submitted a request to withdraw the finality on the office action dated 6/24/08. Upon further consideration, the arguments are persuasive and the previous final office action mailed 6/24/08 is hereby vacated. The following non final office action is as follows below.

This Office Action is in response to Applicant's arguments filed on 3/10/08. Claim(s) 7 and 11-14 are pending. Claim(s) 7, 11, 13 and 14 have been amended. Claims 8-10 have been cancelled. Claim(s) 7 and 11-14 are examined herein.

Response to Arguments

In view of Applicant's cancellation of claim 8, the objection over said claim is hereby withdrawn.

In view of Applicant's amendments, the 112 1st rejection of claims 7-14 has been withdrawn.

Applicant's arguments with respect to the 102(b) rejection of claims 7-12 as being anticipated over Bamdad (WO 01/78709 A2) has been fully considered but is not persuasive as Applicant is now arguing based on amended claims. Since Applicant has amended the claims, said rejection is hereby withdrawn.

Applicant's arguments with respect to the 102(b) rejection of claims 13 and 14 as being anticipated over Ikhlef et al. (US Pub. No. 2003/0064374 A1) has been fully

considered but is not persuasive as Applicant is now arguing based on amended claims. Since Applicant has amended the claims, said rejection is hereby withdrawn.

Applicant's amendments necessitated the new ground(s) of rejection presented in this Office action.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 7 and 11-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ikhlef et al. (US Pub. No. 2003/0064374 A1) in view of Dalton et al. (WO 95/11887).

Ikhlef teaches treating neurodegenerative diseases, including ALS and Alzheimer's disease with the use of etazolate (page 4, [0056]; claims 9, 12-14, and 17).

Ikhlef teaches that etazolate may be administered by any method known in the art preferably injection, namely the intravenous route (page 4, [0058]).

Ikhlef does not teach treating cognitive deficits.

Dalton teaches a class of compounds that are enhancers of memory and cognition and used to treat age-related memory deficit conditions, such as Alzheimer's disease (page 1, lines 19-21).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have known that by administering etazolate as taught by Ikhlef to treat Alzheimer's disease, that one would also have been treating the cognitive deficiencies of the disease. As taught by Dalton, Alzheimer's disease is an age-related memory deficit condition, therefore by treating Alzheimer's disease, one is indeed also treating the cognitive deficiencies of the disease. Therefore, one of ordinary skill in the art, would with a reasonable degree of success, expect that by administering etazolate to treat Alzheimer's disease would also be treating the cognitive deficits associated with the disease.

Conclusion

Claims 7 and 11-14 are not allowed.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SAHAR JAVANMARD whose telephone number is (571) 270-3280. The examiner can normally be reached on 8 AM-5 PM MON-FRI (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sreeni Padmanabhan can be reached on (571) 272-0629. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

/S. J./

Examiner, Art Unit 1617

/SREENI PADMANABHAN/
Supervisory Patent Examiner, Art Unit 1617